

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

BKY 20-41688

Chapter 7

Christopher John Kovanda,

Debtor.

**NOTICE OF HEARING AND MOTION FOR ORDER REQUIRING
MINNEAPOLIS POLICE DEPARTMENT TO TURN OVER PROPERTY**

1. Randall L. Seaver, the Chapter 7 trustee herein, moves the court for the relief requested below and gives notice of hearing herewith.

2. The Court will hold a hearing on this motion at 10:00 a.m. on Wednesday, December 9, 2020. The hearing will be held in Courtroom 7W, U.S. Bankruptcy Court, 300 South Fourth Street, Minneapolis, MN 55415.

3. Any response to this motion must be filed and served by delivery not later than Friday, December 4, 2020, which is five days before the time set for the hearing (including Saturdays, Sundays and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This Court has jurisdiction over this motion under 28 U.S.C. §157 and §1334 and Bankruptcy Rule 5005. This motion is filed under Local Rule 9013-2, this proceeding arises under 11 U.S.C. §542(a).

5. This case was originally commenced by the filing of a Voluntary Chapter 13 case, it was subsequently converted to a case under Chapter 7 and the Trustee was appointed to administer the bankruptcy estate. The case is now pending in this court.

6. The debtor filed verification statement with his amended schedules filed on September 24, 2020 (Doc. 69), in which the debtor alleged that his estranged wife had taken possession of “three Henry rifles and a cz p450 handgun” which belonged to the debtor.

7. The debtor’s Schedule B filed with his initial petition disclosed only one firearm, a Henry Eagle rifle.

8. The Trustee contacted the debtor’s estranged wife regarding the firearms and was informed that the debtor owns three rifles, a pellet gun, and four hand guns, which appear to now

be in possession of the Minneapolis Police Department. The debtor's estranged spouse provided the trustee with a case control number of 20-277117, which purportedly relates to the surrender of the firearms to the police department.

9. The Trustee seeks an Order requiring the turnover of bankruptcy estate property from the Minneapolis Police Department. pursuant to 11 U.S.C. § 542(a), which states as follows:

(a) Except as provided in subsection (c) or (d) of this section, an entity, other than a custodian, in possession, custody, or control, during the case, of property that the trustee may use, sell, or lease under section 363 of this title, or that the debtor may exempt under section 522 of this title, shall deliver to the trustee, and account for, such property or the value of such property, unless such property is of inconsequential value or benefit to the estate.

10. The debtors' firearms which are in the possession of the Minneapolis Police Department are property of the estate which the trustee may sell pursuant to 11 U.S.C. § 363. Consequently, the Trustee is entitled to an order requiring the turnover of those assets, and any other assets of the estate currently in the possession of the Minneapolis Police Department.

11. The Trustee requests an order of the Court requiring the Minneapolis Police Department, or any other division of the City of Minneapolis, to turnover to the Trustee pursuant to 11 U.S.C. § 542(a), all property of the bankruptcy estate currently in their possession as a result of the surrender relating to case control number 20-277117, including but not limited to the three (3) Henry rifles and four (4) hand guns.

WHEREFORE, the Trustee seeks an order of the Court compelling the Minneapolis Police Department and any other department of the City of Minneapolis, to turn over to the Trustee within ten (10) days from the entry of the order on this motion, at 12400 Portland Ave. S., Suite 132, Burnsville, MN 55337 the following assets relating to case control number 20-277117:

1. Three Henry rifles;
2. Four hand guns; and
3. Any other property surrendered to the Minneapolis Police Department relating to case control number 20-277117.

FULLER, SEAVER & SWANSON, P.A.

Dated: November 20, 2020

By: /e/ Matthew D. Swanson
Matthew D. Swanson 390271
Randall L. Seaver 152882
12400 Portland Avenue South, Suite 132
Burnsville, MN 55337
(952) 890-0888
Attorneys for Randall L. Seaver, Trustee

VERIFICATION

I, Randall L. Seaver, trustee for the bankruptcy estate named in the foregoing notice of hearing and motion for turnover of property, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on November 20, 2020

/e/ Randall L. Seaver
Randall L. Seaver, Trustee

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UNSWORN CERTIFICATE OF SERVICE

I hereby certify that on November 20, 2020, I caused the following documents:

1. Notice of Hearing and Motion for Turnover of Property;
2. Unsworn Certificate of Service; and
3. Order Regarding Turnover of Property (proposed).

to be filed electronically with the Clerk of Court through ECF, and that the above documents will be delivered by automatic e-mail notification pursuant to ECF and this constitutes service or notice pursuant to Local Rule 9006-1(a).

I further certify that I caused a copy of the foregoing documents to be mailed by first-class mail, postage pre-paid to the following:

Christopher John Kovanda Post Office Box 390144 Edina, MN 55439	Howard A. Lazarus 3800 American Boulevard West Suite 1500 Bloomington, MN 55431
Jacob Frey Mayor of Minneapolis 350 South 5 th Street Room 331 Minneapolis, MN 55415	Medaria Arrandondo Chief of Police Minneapolis Police Department 350 Fifth Street South Room 130 Minneapolis, MN 55415
Jim Rowader Minneapolis City Attorney's Office 350 South 5 th Street City Hall, Room 210 Minneapolis, MN 55415	Christopher John Kovanda 1547 E. 33 rd Street Minneapolis, MN 55407

FULLER, SEAVER & SWANSON, P.A.

Dated: November 20, 2020

By: /e/ Matthew D. Swanson

Matthew D. Swanson

12400 Portland Avenue South, Suite 132

Burnsville, MN 55337

(952) 890-0888

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ORDER

This case is before the court on the trustee's motion for turnover of property pursuant to 11 U.S.C. § 542(a). Appearances, if any, were noted upon the record.

Upon the motion and the files,

IT IS ORDERED:

The Minneapolis Police Department and any other department of the City of Minneapolis, shall turn over to the Trustee within ten (10) days from the entry of the order on this motion, at 12400 Portland Ave. S., Suite 132, Burnsville, MN 55337, the following assets relating to case control number 20-277117:

1. Three Henry rifles;
2. Four hand guns; and
3. Any other property surrendered to the Minneapolis Police Department relating to case control number 20-277117.

Dated:

Michael E. Ridgway
Chief United States Bankruptcy Judge